

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
LUND
ZONING MAP AMENDMENT REPORT (FZC-16-14)
NOVEMBER 30, 2016

A report to the Flathead County Planning Board and Board of Commissioners regarding a request by Jackola Engineering and Architecture on behalf of the applicant, Curtis Lund, for a zoning map amendment in the Evergreen Zoning Districts. The proposed amendment would change the zoning on a portion of property currently zoned 'R-5 Two-Family Residential' to 'RA-1 Residential Apartment.'

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on December 14, 2016 in the South Campus Building at 40 11th Street West, in Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration. In accordance with Montana law, the Commissioners will hold a public hearing on the proposed zoning map amendment.

Documents pertaining to the zoning map amendment are available for public inspection in the Flathead County Planning and Zoning Office located in the South Campus Building at 40 11th Street West, in Kalispell. Prior to the Commissioner's public hearing, documents pertaining to the zoning map amendments will also be available for public inspection in the Flathead County Clerk and Records Office at 800 South Main Street in Kalispell.

I. APPLICATION REVIEW UPDATES

A. Planning Board

This space will contain an update regarding the Planning Board review of the proposal.

B. Commission

This space will contain an update regarding the Flathead County Commissioners review of the proposal.

II. GENERAL INFORMATION

A. Applicant/Petitioner

i. Applicants

Curtis Lund
3030 Airport Road
Kalispell, MT 59901

ii. Owner

Valley Community Church of God
2149 Highway 2 East
Kalispell, MT 59901

iii. Technical Assistance

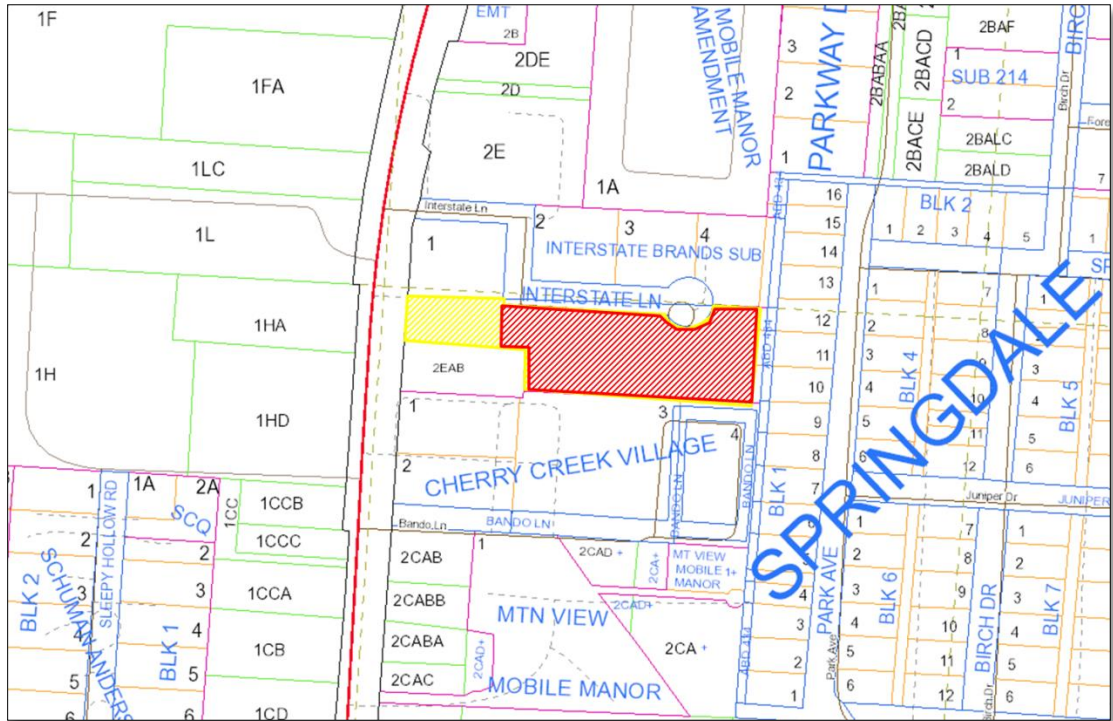
Rory Young
Jackola Engineering & Architecture
2250 Highway 93 South
Kalispell, MT 59901

B. Subject Property Location and Legal Description

The subject property is located at 2149 Highway 2 East in Evergreen, Montana and can legally be described as follows:

The proposed zone change would take place on only a portion of the subject property.

Figure 1: Subject property in yellow and portion to be rezoned in red



C. Proposed Zoning Map Amendment

The subject property is located within the Evergreen Zoning Districts and is currently zoned 'R-5 Two-Family Residential' (see Figure 2 below). As depicted in Figure 3 below, the applicant has requested the zoning map amendment for the property to zone it 'RA-1 Residential Apartment'. While the subject property is currently also partially zoned 'B-2/Evergreen Enterprise Zoning Overlay', only that portion of the property zoned 'R-5' will be rezoned.

The R-5 designation is defined in Section 3.13 of the Flathead County Zoning Regulations (FCZR) as, *'A residential district with minimum lot areas. Development within the district will require all public utilities, and all community facilities. A duplex is allowed in this district.'*

The RA-1 designation is defined in Section 3.15 of the Flathead County Zoning Regulations (FCZR) as, ‘*A district to provide areas for multi-family use and for non-residential uses, which support or are compatible with the primarily residential character. This district is intended as a buffer between residential districts and other non-residential districts. This district shall be served by community water and sewer and have immediate access to fire, police, refuse, and park facilities.*’

Figure 2: Current zoning applicable to project (highlighted in blue)

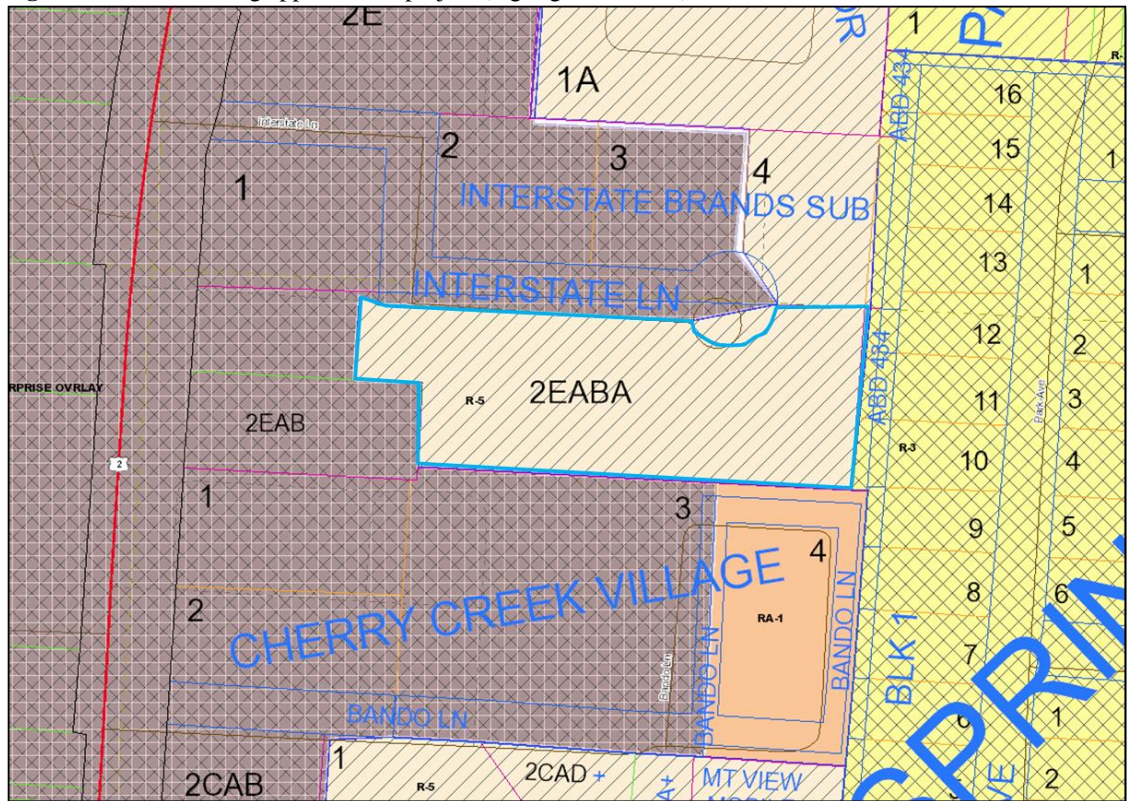
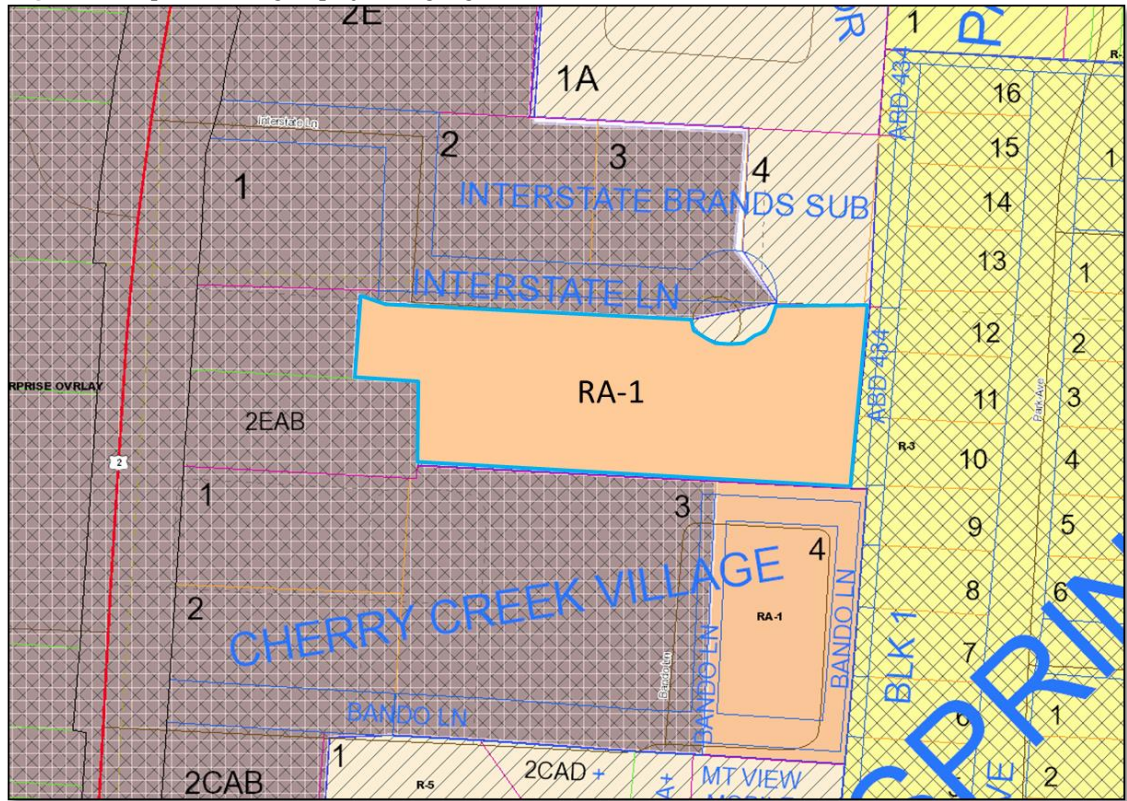


Figure 3: Proposed zoning of project (highlighted in blue)



D. General Character of and Reason for Amendment

The property is located along Interstate Lane adjacent to Highway 2 East. The lot is currently developed with the Valley Community Church of God and a residence on the western side of the lot. The property is relatively flat but is almost entirely covered in 100-year floodplain. The applicant is requesting the zone change to replace the church with an apartment complex, and after a Boundary Line Adjustment, would potentially place apartments or a clinic on the western side of the subject property currently zoned B-2/EEO.

Figure 4: Aerial view of subject property (project area outlined in yellow)



E. Adjacent Zoning and Character of the Overall Zoning District

The subject property is located within the Evergreen Zoning District and surrounded by business and residential zones (see Figure 2). The property is bordered on the north by R-5, R-3 to the east, RA-1 and B-2/EEO to the south and B-2/EEO to the west. The character of the area surrounding the property is generally business and suburban and urban residential density, as illustrated in Figure 1.

Staff looked at an area within ½ mile of the subject property to determine the character of the area. As illustrated in Figure 6, the Highway 2 corridor is surrounded by B-2/EEO. These business and industrial uses are buffered from the R-2 and R-3 single family residential use by higher density residential and apartment designated R-5 and RA-1 zoning, especially along the eastern side of Highway 2. This transitional zoning would be preserved as the proposed zone change would convert R-5 zoning to RA-1, thereby maintaining the residential/business buffer.

When an application appears to have the potential for spot zoning, the “three part test” established by legal precedent in the case of *Little v. Board of County Commissioners* is reviewed specific to the requested map amendment. Spot zoning is described as a provision of a general plan (i.e. Growth Policy, Neighborhood Plan or Zoning District) creating a zone which benefits one or more parcels that is different from the uses allowed on surrounding properties in the area. Below is a brief review of the three-part test in relation to this application.

i. The Zoning Allows A Use That Differs Significantly From The Prevailing Use In The Area.

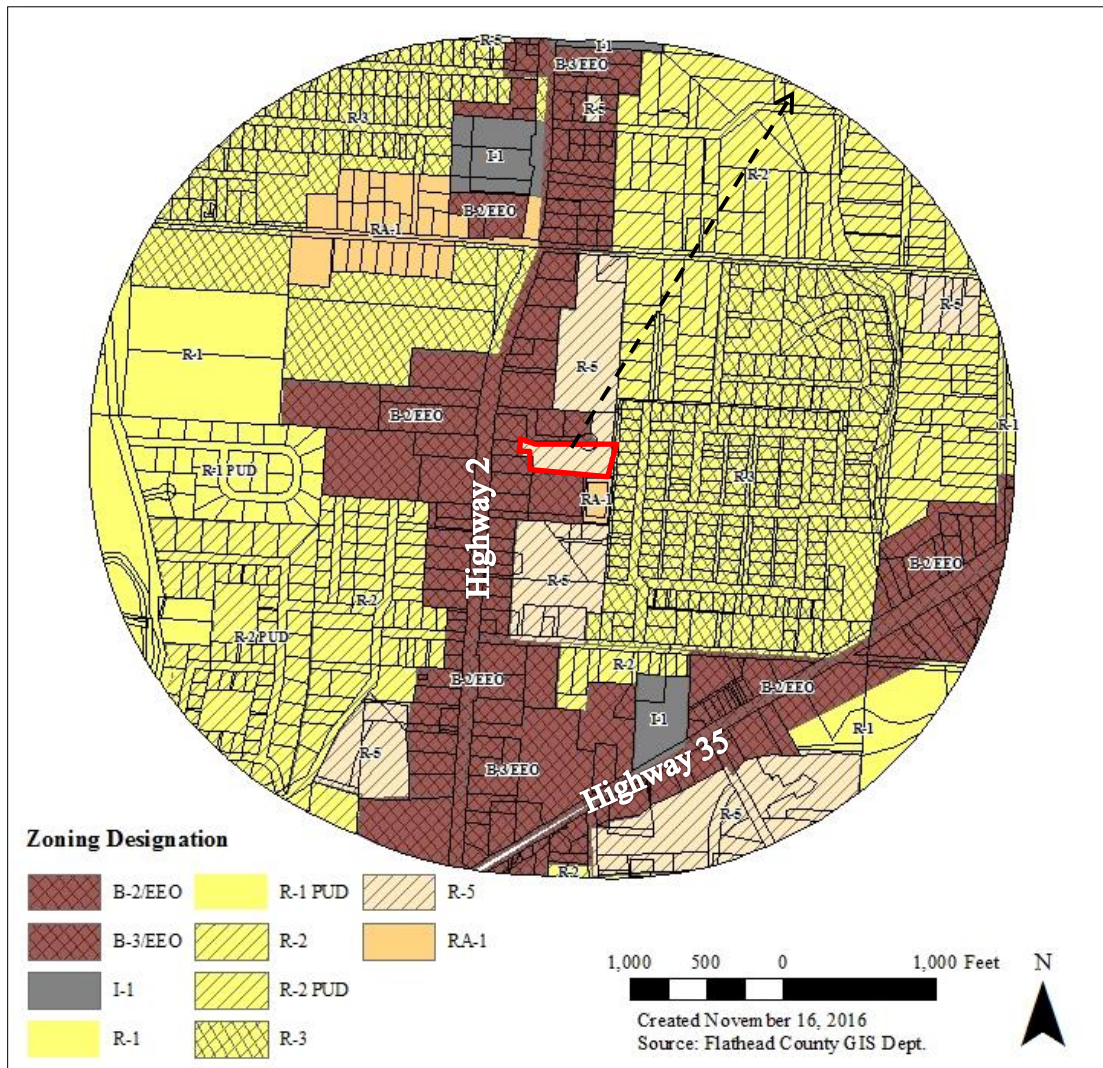
The applicant is proposing to rezone the subject property to RA-1, a zoning designation directly adjacent to the subject property to the south. While the property is sandwiched between an area zoned R-3 which is a residential zone with a minimum lot size of 10,000 square feet and B-2/EEO which includes commercial businesses and has a minimum lot size of 7,500 square feet.

Based on an analysis of the area within ½ mile from the subject property, approximately ¼ of the area is comprised of commercial B-2/B-3 zoning while almost half of the area is R-2 and R-3 single family residential zoning. A little over 10% of the area consists of R-5 and RA-1 duplex and multi-family residential zoning which, as illustrated in Figure 6, is located within pockets sandwiched between the Highway 2 commercial corridor and residential neighborhoods. It therefore appears that the proposed use would not differ significantly from the prevailing uses in the area.

Figure 5: Percent Zoning Use by classification within ½ mile of subject property

Zoning Use within 1/2 Mile of Proposed Zone Change				
	Total Acres	Percent Acres	Acres with Zone Change	Percent Acres
R-1/R-1 PUD	66.18	10.68%	66.18	10.68%
R-2/R-2 PUD	157.07	25.35%	157.07	25.35%
R-3/R-3 PUD	157.83	25.47%	157.83	25.47%
R-5	53.04	8.56%	50.64	8.17%
RA-1	17.85	2.88%	20.25	3.27%
I-1	12.23	1.97%	12.23	1.97%
B-2/B-3 with EEO	155.41	25.08%	155.41	25.08%
Total	619.61	100.00%	619.61	100.00%

Figure 6: Zoning Use within ½ mile of subject property (outlined in red)



- i. **The zoning applies to a small area or benefits a small number of separate landowners.**

The proposed zone change would change the zoning on property owned by one owner for the purpose of constructing an apartment complex. The portion of the lot to be rezoned is approximately 2.4 acres in size and will directly benefit one landowner.

- ii. **The Zoning Is Designed To Benefit Only One Or A Few Landowners At The Expense Of The Surrounding Landowners Or The General Public And, Thus, Is In The Nature Of Special Legislation.**

The proposed zone change would allow for residential lots with a minimum lot size of 7,500 square feet with 1,500 square feet for each additional unit in excess of 2. While this RA-1 zoning would permit up to 61 units on the 2.4 acre parcel which is almost twice the density allowed if the 2.4 acres of R-5 were divided into 19 5,400 sq.ft lots each containing duplexes. However, the zone change would

expand an existing RA-1 zoning district located immediately south of the subject property. Additionally, the RA-1 zoning pocket created by this zone change would be only slightly smaller than another RA-1 zoning pocket located less than ½ mile northeast of the subject property. Additionally, the RA-1 property located immediately south of the subject property contains an existing apartment complex. The proposal would benefit a single landowner, however given the nature of the neighborhood and immediate vicinity would likely not be special legislation at the expense of the surrounding landowners or the general public.

Finding #1: Although the proposed zone change will rezone one lot for the benefit of an individual land owner, the proposal is not considered spot zoning because the RA-1 zoning would allow for residential use and densities found in the immediate vicinity and would not be special legislation at the expense of the surrounding landowners or the general public.

F. Public Services and Facilities

Sewer:	Evergreen Water
Water:	Evergreen Sewer
Electricity:	Flathead Electric Cooperative
Natural Gas:	Northwestern Energy
Telephone:	CenturyTel
Schools:	Evergreen School District Flathead High School District
Fire:	Evergreen Fire District
Police:	Flathead County Sheriff's Office

G. Criteria Used for Evaluation of Proposed Amendment

Map amendments to zoning districts are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing amendments are found in Section 2.08.040 of the Flathead County Zoning Regulations and 76-2-203 M.C.A.

H. Compliance With Public Notice Requirements

Adjacent property notification regarding the proposed zoning map amendment was mailed to property owners within 150 feet of the subject property on November 23, 2016. Legal notice of the Planning Board public hearing on this application was published in the November 27, 2016 edition of the Daily Interlake.

Public notice of the Board of County Commissioners public hearing regarding the zoning map amendment will be physically posted on the subject property and within the zoning district according to statutory requirements found in Section 76-2-205 [M.C.A.]. Notice will also be published once a week for two weeks prior to the public hearing in the legal section of the Daily Interlake. All methods of public notice will include information on the general character of the proposed change, and the date, time, and location of the public hearing before the Flathead County Commissioners on the requested zoning map amendment.

I. Agency Referrals

Referrals were sent to the following agencies on October 17, 2016:

- Flathead County Sheriff

- Dave Prunty, Public Works/Flathead County Road Department
- Flathead County Solid Waste
- Flathead City-County Health Department
- Flathead County Weeds & Parks Department
- Montana Department of Transportation
- Bonneville Power Administration
- City of Kalispell Planning Department
- Montana Fish, Wildlife and Parks
- Evergreen Fire District
- Evergreen Water and Sewer District (Sent November 18)

III. COMMENTS RECEIVED

A. Public Comments

As of the date of the completion of this staff report, no public comments have been received regarding the requested zoning map amendment. Any member of the public wishing to provide comment on the proposed zoning map amendment may do so at the Planning Board public hearing scheduled for December 14, 2016 and/or the Commissioner's public hearing. Any written comments received following the completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing(s).

B. Agency Comments

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- James Freyholtz, MDT
 - Comment: "I do not have any comments regarding this proposal." Email 10/27/2016
- Wendee Jacobs, Flathead City-County Health Department
 - Comment: "We have no objection to the proposed zone change request." Letter 10/27/2016
- James Chilton, Flathead County Solid Waste Department
 - Comment: "The District requests that all solid waste generated at the proposed location be hauled by a private hauler. Evergreen Disposal is the licensed (PSC) Public Service Commission private hauler in this area." Letter 10/25/2016
- Jessy Coltrane, Montana Fish, Wildlife and Parks
 - Comment: "Montana Fish, Wildlife and Parks has no comment with regard to the above-referenced zone change request." Letter 10/21/2016
- Julie Weber, BPA
 - Comment: "In reviewing the proposed plan, it appears this request will not affect any BPA facilities located within this area. BPA does not have any objections to the approval of this request at this time."
- David Prunty, Flathead County Road and Bridge Department
 - Comment: "At this point the County Road Department does not have any comments on this request." Letter 10/20/2016

IV. EVALUATION OF PROPOSED AMENDMENT

A. Build Out Analysis

Once a specific zoning designation is applied in a certain area, landowners have certain land uses that are allowed “by-right.” A build-out analysis is performed to examine the maximum potential impacts of full build-out of those “by-right” uses. It is typically done looking at maximum densities, permitted uses, and demands on public services and facilities. Build-out analyses are objective and are not “best-case” or “worst-case” scenarios. Without a build-out analysis to establish a foundation of understanding, there is no way to estimate the meaning of the proposed change to neighbors, the environment, future demands for public services and facilities and any of the evaluation criteria, such as impact to transportation systems. Build-out analyses are simply establishing the meaning of the zoning map amendment to the future of the community to allow for the best possible review.

i. Current Zoning

The proposed zoning map amendment would change the zoning designation on the subject property from the existing ‘R-5 Two-Family Residential’.

R-5 is defined in Section 3.13 FCZR as, ‘*A residential district with minimum lot areas. Development within the district will require all public utilities, and all community facilities. A duplex is allowed in this district.*’ The following is a list of permitted uses in an R-5 zone:

1. *Class A and Class B manufactured home. (See Chapter VII – Definitions).*
2. *Day care home.*
3. *Dwelling, single-family.*
4. *Duplex.*
5. *Home occupation (See Chapter V – Performance Standards and Chapter VII - Definitions).*
6. *Homeowners park and beaches.*
7. *Park and publicly owned recreational facility.*
8. *Public transportation shelter station.*
9. *Public utility service installation. (A minimum of five feet of landscaped area shall surround such building or structure.)*

The following uses are listed as conditional uses in an ‘R-5’ zone. An asterisk designates conditional uses that may be reviewed administratively:

1. *Beauty Salon and Barbershop.*
2. *Bed and breakfast establishment.*
3. *Cellular tower.**
4. *Church and other place of worship.*
5. *Community center building operated by a non-profit agency.*
6. *Community residential facility.***
7. *Day care center.*
8. *Dwellings, cluster development (See Chapter IV – Conditional Use Standards).*
9. *Dwelling unit, accessory (ADU).**
10. *Electrical distribution station.*
11. *Golf course.*

12. *Manufactured home park.*
13. *Mini-storage, RV storage.*
14. *Recreational vehicle park/campground.*
15. *School, primary and secondary.*
16. *Temporary building or structure.**
17. *Water storage facility.*

The bulk and dimensional standards within R-5 zoning require a setback from the boundary line of 20 feet for the front, rear, and side-corner for a principal structure and 5 feet from the side. The minimum setback requirement for accessory structures is 20 feet for the front and side-corner and 5 feet from the rear and side. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials.

The R-5 zoning requires a minimum lot area of 5,400 square feet. The portion of the property zoned R-5 is approximately 2.4 acres and could be subdivided into 19 lots.

ii. Proposed Zoning

As previously stated, the applicant is proposing RA-1 Residential Apartment zoning. RA-1 is defined in Section 3.15.010 FCZR as, *‘A district to provide areas for multi-family use and for non-residential uses, which support or are compatible with the primarily residential character. This district is intended as a buffer between residential districts and other non-residential districts. This district shall be served by community water and sewer and have immediate access to fire, police, refuse, and park facilities.’* The following is a list of permitted uses in an RA-1 zone:

1. *Class A manufactured home.*
2. *Day care home.*
3. *Dwelling, single-family.*
4. *Duplex.*
5. *Home occupation (See Chapter V – Performance Standards and Chapter VII – Definitions).*
6. *Homeowners park and beaches.*
7. *Park and publicly owned recreational facility.*
8. *Public transportation shelter station.*
9. *Public utility service installation. (A minimum of five feet of landscaped area shall surround such building or structure.)*

The following uses are listed as conditional uses in an ‘RA-1’ zone. An asterisk designates conditional uses that may be reviewed administratively:

1. *Beauty Salon and Barbershop.*
2. *Bed and breakfast establishment.*
3. *Cellular tower.**
4. *Church and other place of worship.*
5. *Clinic, medical and dental.*

6. *College, business school, trade school, music conservatory, dance school.*
7. *Community center building operated by non-profit agency.*
8. *Community residential facility.***
9. *Day care center.*
10. *Dwelling, multi-family.*
11. *Dwelling unit, accessory (ADU).**
12. *Electrical distribution station.*
13. *Fraternity or sorority house.*
14. *Golf course.*
15. *Golf driving range and putting course.*
16. *Hospital.*
17. *Lodge, fraternal and social organization provided that any such establishment shall not be conducted primarily for gain.*
18. *Manufactured home park.*
19. *Mini-storage, RV storage.*
20. *Mortuary.*
21. *Pharmacy, operated within a clinic or physician's office and selling only drugs, prescription medicine, medical supplies and appliances, and pharmaceutical products, provided that no more than 50% of the ground floor of the building shall be used for such purpose.*
22. *Recreational facility, low-impact.*
23. *School, primary and secondary.*
24. *Temporary building or structure.**
25. *Water storage facility.*

The bulk and dimensional requirements within the proposed RA-1 zoning require a setback of 20 feet for the front, rear and side-corner and 5 feet from the side or 15 feet on the side for a 3-plex or larger for principal structures. Accessory structures require a setback of 20 feet from the front and side corner and 5 feet from the side and rear. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials.

The RA-1 zoning requires a minimum lot area of 7,500 square feet plus 1,500 square feet additional for each dwelling unit in excess of two. The portion of the property to be rezoned is approximately 2.4 acres and could therefore be split into 13 lots; however the density allowed in the RA-1 district as a result of multi-family dwellings is greater than that allowed in R-5.

In summary, the bulk and dimensional requirements are similar from between the existing and proposed zoning, the zoning map amendment would allow uses that are typical of multi-family zoning districts and similar or compatible to uses that are allowed under the existing R-5 zoning. Fewer lots could be created as a result of the proposed zoning but more units per structure could be developed in the RA-1.

B. Evaluation of Proposed Amendment Based on Statutory Criteria (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

i. Whether the proposed map amendment is made in accordance with the Growth Policy/Neighborhood Plan.

The proposed zoning map amendment falls within the jurisdiction of the Flathead County Growth Policy, adopted on March 19, 2007 (Resolution #2015 A) and updated October 12, 2012 (Resolution #2015 R).

1. Flathead County Growth Policy

The Flathead County Growth Policy Designated Land Uses Map identifies the subject property as ‘Residential.’ The proposed multi-family zoning classification would appear to comply with the current Residential designation. Chapter 10 Part 3: Land Uses Maps of the Growth Policy under the heading Designated Land Use Maps specifically states, *“This map depicts areas of Flathead County that are legally designated for particular use. This is a map which depicts existing conditions. The areas include zoning districts which are lumped together by general use rather than each specific zone and neighborhood plan. Further information on particular land uses in these areas can be obtained by consulting the appropriate zoning regulations or neighborhood plan document. The uses depicted are consistent with the existing regulations and individual plan documents. This map may be changed from time to time to reflect additional zoning districts, changes in zoning districts, map changes and neighborhood plans as they are adopted. Since this map is for informational purposes, the Planning Staff may update the same to conform to changes without the necessity of a separate resolution changing this map.”* Therefore, staff interprets this to mean the Designated Land Use Map is not a future land use map that implements policies, but rather a reflection of historic land use categories. If the zoning map amendment is approved the Designated Land Use Map can be updated by staff to reflect changes made by the County Commissioners based on policies, rather than maps in the document.

Following is a consideration of goals and policies which appear to be applicable to the proposed zone change, to determine if the proposal complies with the Growth Policy:

- ❖ **G.2** – *Preserve the rights of property owners to the use, enjoyment and value of their property and protect the same rights for all property owners.*
 - The amendment would allow the owner to develop the lot and place additional residential units on the property.
- ❖ **G.8** – *Safe healthy residential land use densities that preserve the character of Flathead County, protect the rights of landowner to develop land, protect the health, safety, and general welfare of neighbors and efficiently provide local services.*
 - The RA-1 designation would allow for densities of 1 dwelling unit per 7,500 square feet plus 1,500 square feet for each additional unit over 2 which would allow for fewer individual single family residential lots than if zoned R-5 but more residential density via multi-family development. The RA-1 zone would be located as a

buffer between neighborhood residential and commercial districts as the zoning classification was intended.

- ❖ **G.15** – *Promote a diverse demographic of residents.*
- ❖ **G.16** – *Safe housing that is available, accessible, and affordable for all sectors of the population.*
 - **P.16.3** – *Promote the development of affordable single and multi-family housing in areas of adequate service networks.*
 - The proposed zone would allow for additional single and multi-family residential housing adjacent to a commercial corridor.
- ❖ **G.23** – *Maintain safe and efficient traffic flow and mobility on county roadways.*
 - **P.23.2** – *Limit private driveways from directly accessing arterials and collector roads to safe separation distances.*
 - **P.23.4** – *Recognize areas in proximity to employment and retail centers as more suitable for higher residential densities and mixed use development.*
 - This report contains discussion on the proposal’s potential burden on transportation below.
- ❖ **G.31** – *Growth that does not place unreasonable burden on the school district to provide quality education.*
 - This report contains discussion on the proposal’s potential burden on schools below.
- ❖ **G.32** – *Maintain consistently high level of fire, ambulance and emergency 911 response services in Flathead County as growth occurs.*
- ❖ **G.33** – *Maintain a consistently high level of law enforcement services in Flathead County as growth occurs.*
 - This report contains discussion on the adequacy of emergency service below.
- ❖ **G.46** – *Honor the integrity and purpose of existing neighborhood plans, respecting the time, effort and community involvement that has taken place.*
 - The property is located within the Kalispell City-County Master Plan. This report contains discussion on the proposals compliance with the Master Plan below.

Finding #2: The proposed zoning map amendment generally complies with the Flathead County Growth Policy because the ‘Residential’ land use designation identified by the Designated Land Use Map complies with the proposal and the applicable goals, policies and text generally support the request.

2. Kalispell City-County Master Plan

The Kalispell City-County Master Plan (Master Plan) Map was incorporated into the Growth Policy to provide more specific guidance on future development and land use decisions within the plan area at the local level.

The Master Plan is composed of three major components, the text, goals and objectives, and the map. According to the Master Plan, *“Relying on only one component will not always give a clear picture of the broad community concepts or the spirit of the Plan. Or worse, it may lead to a twisting or manipulation of the Plan.”* Therefore, this report contains discussion on compliance with all three of the Master Plan.

The subject property is located on the Kalispell City-County Master Plan Map as both ‘Commercial’ and ‘Suburban Residential’. The ‘Highway Commercial’ designation is defined as, *“A district which provides for compact grouping of commercial uses which require and cater to the automobile for customer contact. Uses are typically located along arterial and collector streets and include motels, auto sales and services, truck and heavy equipment sales, restaurants, building supply centers, etc. Uses are typically characterized by a need for considerable parking, outside displays, storage and sales areas. Districts may require extra front yard setbacks and/or frontage roads to allow for free traffic movement. Appropriate buffering, landscaping, or extra setbacks would be incorporated wherever said district is adjacent to a residential district.”*

The ‘Suburban Residential’ designation is defined as *“A residential district which provides for two or less units per acre. Such areas typically do not have access to a community sewer or water system, have only limited police and fire protection and may have a limited carrying capacity due to site or soil limitations, floodplain or other natural constraints which preclude higher density. Suburban residential districts are typically located in two areas: on the periphery of the urbanized community where they serve as a transitional development pattern between the urban area and the timber and agricultural areas beyond, and in aesthetically attractive areas such as foothills, lakeshore, or river frontage not suitable for agriculture or timber production. Suburban residential districts provide large lot, estate, ranchette, or resort housing opportunities where limited farming/gardening and raising of animals is common and/or privacy, aesthetic consideration and preservation of the natural surroundings are paramount. Detached single family houses and manufactured homes on individual lots would constitute the major land use pattern.”*

❖ **Goal 4** – *A housing supply within the planning jurisdiction that meets the needs of present and future residents in terms of supply, choice and location.*

- The proposal has the potential to add a mix of housing choices within the planning jurisdiction.

❖ **Goal 6** – *The orderly development of the planning jurisdiction with ample space for future growth while, at the same time, ensuring compatibility of adjacent lands uses.*

- **Objective 6.a.** – *Designate adequate areas for a variety of business and commercial uses such as neighborhood-oriented businesses and*

services, highway-commercial oriented activities and general commercial uses.

- **Objective 6.f.** - *Establish standards for buffering incompatible land uses for mitigating impacts caused by such arraignments.*
- **Objective 6.g.**-*Maintain the character of the single-family neighborhoods.*
- **Objective 6.h.**- *Concentrate medium and high density residential units in areas close to commercial services good traffic access and open space specifically to provide efficient access to these amenities for the occupants and to provide a suitable buffer between commercial and high traffic areas and low density residential areas.*
 - The proposal would provide for additional multifamily dwellings in an area surrounded by highway-oriented commercial development and single family dwellings. The higher density residences wouldn't contribute to the single-family neighborhoods but do provide a residential buffer to the commercial uses.

Based on the definitions of 'Highway Commercial' and 'Suburban Residential' the proposed zone change from R-5 to RA-1 would not comply with either designation. However, the texts of the plan, specifically Objective 6.h would appear to support the proposed zone change as it would provide appropriate buffer between the commercial and single family residential neighborhoods.

Finding #3: The proposed zoning map amendment does not appear to comply with the Kalispell City-County Master Plan map which illustrates the lot between 'Highway Commercial' and 'Suburban Residential', however the proposed map amendment would support the goals and objectives outlined in the text of the document.

1. Secure safety from fire and other dangers;

The subject property is located within the Evergreen Fire District and the nearest fire station is located approximately 1/2 of a mile north of the property on U.S. Highway 2 E. The Evergreen Fire Department would respond in the event of a fire or medical emergency. The subject property is not located within the Wildland Urban Interface (WUI) or within a fire district priority area.

The subject property is located on Interstate Lane east of Highway 2. Interstate Lane is a paved two lane local road and cul-de-sac within a 60 foot easement. Interstate Lane would be able to provide adequate ingress/egress for emergency vehicles.

In addition to the zone change, the applicants are proposing a text amendment to the RA-1 zoning to increase the height restrictions from 35 feet to 45 feet. The text amendment will require review and, if approved, would presumably

create minimal impacts or impacts that can be handled by the local fire department. Based on conversation with the Evergreen Fire Marshall Ben Covington, the proposed 45 foot height could be accommodated by the fire department in the event of a fire.

According to FEMA FIRM Panel 30029C 1810J, the property is located within a Zone AE floodplain across a majority of the property. If the applicants want to develop the lot with apartments they would have to either obtain a floodplain development permit or have the property elevated above the Base Flood Elevation (BFE) of the 100-year floodplain.

Finding #4: The proposed map amendment will likely not impact safety from fire and other danger because the property is located within ½ mile of the Evergreen Fire Department, the lot is located along a paved roadway with a cul-de-sac turn around which can accommodate emergency vehicles, the increase in height from 35 feet to 45 feet will be reviewed as a separate text amendment and if approved will presumably cause no significant impacts.

Finding #5: The subject property is located almost entirely within 100-year floodplain and if developed would require a floodplain development permit or would require the property be elevated above the Base Flood Elevation (BFE) of the 100-year floodplain.

2. Promote public health, public safety, and general welfare;

As previously stated, the property is located within the Evergreen Fire District about 1/2 of a mile from the nearest fire and emergency response center located on U.S. Highway 2. The Evergreen Fire Department would respond in the event of a fire or medical emergency and the Flathead County Sheriff's Department provides police services to the subject property. The property is located on Interstate Lane which terminates in a cul-de-sac and appears adequate to provide ingress and egress for emergency services.

The property is bordered on the north by R-5 and B-2/EEO, R-3 to the east, RA-1 and B-2/EEO to the south and B-2/EEO to the west. The character of the area surrounding the property is generally commercial and medium to high-density residential. The uses allowed within the RA-1 would be similar to what exists on the neighboring properties and the same as that of the adjacent RA-1. Because the uses are similar or compatible with what exist in the area the proposal is not likely to negatively impact public health, public safety and general welfare.

Finding #6: The proposed amendment does not appear to have a negative impact on public health, safety and general welfare because future development would be similar or compatible uses already existing in the area and the property is served by the Flathead County Sheriff and the Evergreen Fire Department.

3. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

The subject property accessed via Interstate Lane located along Highway 2 E. Interstate Lane is a paved two lane local road within a 60 foot easement. Comments from the Flathead County Road and Bridge Department indicate no concerns with the proposed zoning map amendment.

There are no traffic counts available for Interstate Lane. However, Interstate Lane is a dead end road that provides access for the Edgewood Senior Living, Franz Bakery, and the DNRC/Conservation District office building. While there is a church and dwelling unit on the subject property these structures will be removed and replaced with apartments on the eastern side of the lot and potentially a clinic/apartments on the western portion of the lot. According to the ITE trip generation manual, senior living facilities produce 2.15 ADT per occupied dwelling unit, general office buildings generate 11.01 ADT per 1000 square feet, specialty retail produces 44.32 ADT per 1000 square feet, 4.96 ADT for 1000 square feet of warehousing, and apartment complexes produce 6.72 ADT per dwelling unit. The Edgewood Senior Living facility has 23 residential units, the DNRC/Conservation District office building is approximately 4,884 square feet, the Franz Bakery has 1,440 square feet of retail space and 10,004 square feet of warehousing. Based on the existing land uses along Interstate Lane there are approximately 258 vehicle trips per day. With full build out of the 2.4 acres, 61 apartment units would add an additional 409 trips. The zone change has the potential of increasing the traffic along Interstate Lane by 158%. While this would appear to significantly impact the transportation network, 668 trips on a paved roadway with direct access to a major collector street does not appear to require additional mitigation. Additionally, multi-family dwellings require a conditional use permit and therefore the proposed apartment complex would be reviewed for appropriate traffic generation.

The application states that the property will utilize public water and sewer service. While the Evergreen Water and Sewer District and City of Kalispell were contacted about the zone change they did not provide comments. The application states “discussion with the City of Kalispell has indicated capacity for treatment of the wastewater generated by this development.” The applicant will be required to work with the Evergreen Water and Sewer District and City of Kalispell to obtain these services as the lot is developed.

The subject property is located within the Evergreen and Flathead School Districts. Evergreen Elementary Schools have seen a decrease in student enrollment over the last ten years of 30% and decrease between 2014 and 2015 of 7%. Flathead High School District has seen an 11% increase in student enrollment over the last ten years but no change between 2014 and 2015. According to census data for Flathead County, the average household size includes 2.46 persons and approximately 16.5% of the population is between the ages of 5-18 years. As previously stated, the proposal has the potential to generate 61 residential units and therefore could generate 25 school age children. No comments have been received from either the elementary or high school districts. The application notes “the Evergreen

School District has indicated that capacity is available within the Evergreen schools.” While it appears the applicants have contacted the district no documentation was provided to support this statement.

The zoning map amendment may impact the existing public park system because greater demand on existing parks may be created. A future subdivision on the property would likely require parkland dedication or cash-in-lieu. The Flathead County Subdivision Regulations would require 11% of the combined gross area of the land proposed to be divided into lots ½ acre or less to be dedicated or 0.03 acres per dwelling unit if residential condominiums or multi-family subdivisions are developed. If the applicant chooses not to dedicate parkland the commissioners may accept cash donation in lieu of parkland. However, there are many parks, natural areas, and recreational opportunities within a short drive.

Finding #7: The zone change may impact the local transportation system as the subject property could double the traffic along Interstate Lane if the area is developed to full capacity but the lot’s proximity to Highway 2, the width of the paved roadway and cul-de-sac, and the fact that traffic as a result of multi-family dwellings will require CUP review suggest that the transportation system will not be overburdened by the proposed zone change.

Finding #8: The proposed amendment appears to facilitate the adequate provision of water and sewer services, schools and parks because the Flathead County Environmental Health indicate no concerns, the new lot would utilize Evergreen water and sewer, no comments were received from either school district, parkland would be considered during subdivision review and there are parks, natural areas, and recreational opportunities within a short driving distance.

ii. In evaluating the proposed map amendment, consideration shall be given to:

1. The reasonable provision of adequate light and air;

The application states, “The RA-1 zone has building height restrictions, minimum building setbacks and maximum fence height requirements that will provide for adequate light and air.” RA-1 zoning has a minimum lot size of 7,500 square feet with 1,500 square feet for each unit in excess of two and requires no more than 35% lot coverage. Setbacks in the RA-1 zone are 20 feet from the front, side corner and rear and 5 feet from the side for a single family dwelling or duplex and 15 feet from the side for a 3-plex or larger. The setbacks for the proposed zone are similar to those in the existing zoning while a greater area of a lot can be covered in the existing zone than the proposed RA-1. The bulk and dimensional requirements for the RA-1 designation have been established to provide for a reasonable provision of light and air.

It should be noted that the applicants have also submitted an application for a text amendment to the RA-1 zoning to increase the maximum height of principle structures from 35 feet to 45 feet. This additional height is not expected to affect provisions of adequate light and air because sufficient

setbacks and lot coverage standards exist in the RA-1 zone to accommodate the additional height.

Finding #9: The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to adhere to the bulk and dimensional requirements including setbacks and lot coverage within the proposed RA-1 designation.

2. The effect on motorized and non-motorized transportation systems;

The application states, “The property is served by US Highway 2 with adequate capacity to serve this development.”

The subject property is located on Interstate Lane, one-tenth of a mile east of Highway 2. Interstate Lane is a paved two lane local road within a 60 foot easement. Comments from the Flathead County Road and Bridge Department indicate no concerns with the proposed zoning map amendment. No traffic counts are available for Interstate Lane. However, Interstate Lane is a dead end road with approximately 258 ADT. With full build out of the 2.4 acres, 61 apartment units would add an additional 409 trips. The zone change has the potential of increasing the traffic along Interstate Lane by 158%. While this would appear to significantly increase the total trips on the road, 668 trips on a paved roadway with direct access to a major collector street does not appear to require additional mitigation. Additionally, multi-family dwellings require a conditional use permit and therefore the proposed apartment complex would be reviewed for appropriate traffic generation.

The applicant notes that a “walking path is planned for the perimeter of the site in order to promote health and welfare and access to a non-motorized transport system.” This trail would likely provide internal non-motorized transportation but would not connect to an existing off-site pedestrian/bike path.

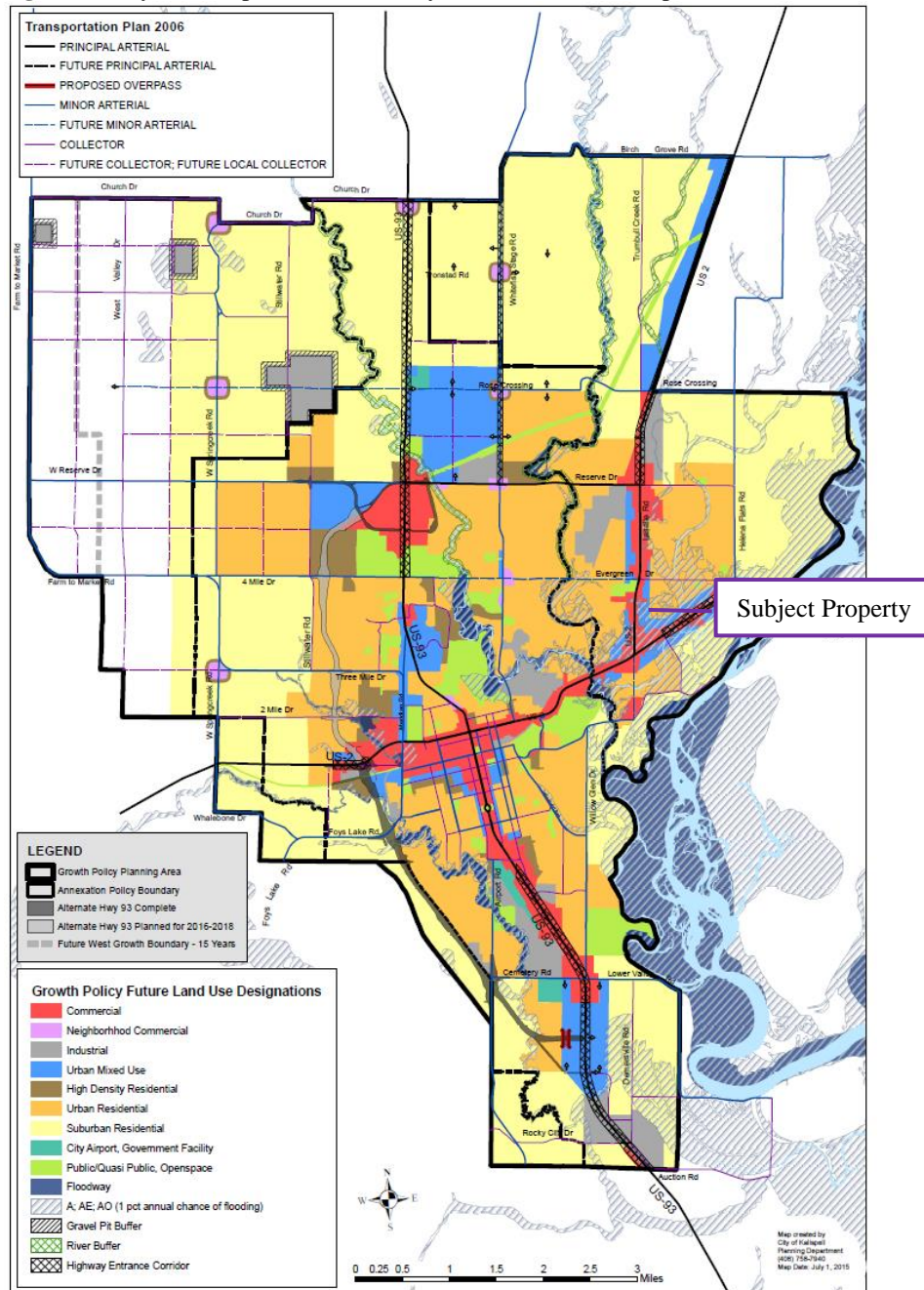
Finding #10: Effects on motorized and non-motorized transportation systems will be minimal because the Flathead County Road and Bridge Department had no concerns with this proposal, the traffic generated by the proposed zoning has the potential to double the traffic along Interstate Lane if the area is developed to full capacity but the lot’s proximity to Highway 2, the width of the paved roadway and cul-de-sac, and the fact that traffic as a result of multi-family dwellings will require CUP review suggest that the transportation system will not be overburdened by the proposed zone change.

3. Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);

Kalispell is the nearest municipality to the subject property, is located less than one mile west of the subject property, and is located outside of the Kalispell Growth Policy Annexation Policy Boundary but within the boundary of the Kalispell Growth Policy Future Land Use Map. No comments have been received from the City of Kalispell Planning Department regarding the requested amendment.

It would appear that the proposed zone change would be compatible with the surrounding urban growth as the Highway 2 corridor is the major commercial and residential center of Evergreen. While not within the incorporated boundaries of Kalispell, this corridor is noted as an extension of the commercial and mixed use development from Kalispell as illustrated by the City of Kalispell Growth Policy Future Land Use Map and the city's existing zoning.

Figure 7: City of Kalispell Growth Policy Future Land Use Map



The City of Kalispell Growth Policy Future Land Use Map designates the subject property as *'Urban Mixed Use'* and the proposed zoning would provide "urban" residential density compatible with the City's designation.

The *'Urban Mixed Use'* designation is defined as, *"Encourage the development of compact, centrally located service and employment areas that provide easy connections between existing commercial and residential neighborhoods."* The residential density and light commercial uses would appear to support the *'Urban Mixed Use'* designation.

Finding #11: Consideration has been given to compatible urban growth in the vicinity of the City of Kalispell because the property is designated as *'Urban Mixed Use'* and appears to be compatible with the proposed zone change.

4. The character of the district(s) and its peculiar suitability for particular uses;

The proposed zoning map amendment would allow for *"multi-family use and for non-residential uses, which support or are compatible with primarily residential character. This district is intended as a buffer between residential districts and other non-residential districts."* Based on the location of the proposed RA-1, it would appear that the zone change would align with the purpose of the zoning classification. As noted in Figure 6 discussed earlier in this report, the area consists of B-2/EEO zoning along the Highway 2 corridor and R-2/ R-3 zoning with R-5 and RA-1 buffer in-between. While the density allowed in the RA-1 would be greater than in R-5, the RA-1 zone change would expand an existing parcel of RA-1. As noted previously, the permitted uses in R-5 are almost identical to RA-1 and the proposed change would allow for some additional light commercial and higher density residential uses with CUP review.

Finding #12: The proposed zoning map amendment appears suitable for the particular district because the zoning classification is intended to provide uses and densities appropriate for a buffer between residential districts and non-residential districts.

5. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

The subject property is located within the Evergreen Zoning District and surrounded by residential uses with commercial and residential zoning in the vicinity (see Figure 2). The application states, "this zoning amendment would conserve the value of buildings in the area and the proposed use would provide the most appropriate use of land by supplying safe, affordable and accessible residential living."

The proposed zone change would allow for higher density residential and light commercial uses specifically intended as a buffer between neighborhood residential and commercial districts. While the proposed zone change would permit multi-family dwellings which are not allowed in R-5, additional side setbacks are required for 3-plexes or larger. The applicants have also submitted a zoning text amendment proposal to increase the maximum height

from 35 feet to 45 feet to accommodate pitched roofs with multiple hips in order to create an aesthetically pleasing, residential character to the intended apartment complex. The zone change would increase the supply of affordable housing in an appropriate location which benefits the larger community.

Finding #13: This proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this particular location because the uses allowed for within the proposed zone would be the similar to the adjacent R-5 and designed specifically to provide an appropriate buffer between residential districts and non-residential districts.

iii. Whether the proposed map amendment will make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.

Kalispell is the nearest municipality to the subject property and is located less than one mile west of the subject property. The property is located outside of the Kalispell Growth Policy Annexation Policy Boundary but within the boundary of the Kalispell Growth Policy Future Land Use Map. No comments have been received from the City of Kalispell Planning Department regarding this proposal.

The closest City zoning to the subject property is R-4. The City's R-4 has a 6,000 square foot minimum lot size and allows for some similar uses but not the same density as the proposed RA-1. However, the city's R-4 zoning is over 1 mile away from the subject property and located within an area of Evergreen with similar zoning and "urban" features. The proposed map amendment appears to be compatible with the zoning ordinance of Kalispell.

Finding #14: The proposed map amendment appears to be compatible with the zoning ordinance of Kalispell because the RA-1 zone would allow for similar or comparable uses to the nearest City's zoning and no comments were received from the City of Kalispell.

V. SUMMARY OF FINDINGS

Finding #1: Although the proposed zone change will rezone one lot for the benefit of an individual land owner, the proposal is not considered spot zoning because the RA-1 zoning would allow for residential use and densities found in the immediate vicinity and would not be special legislation at the expense of the surrounding landowners or the general public.

Finding #2: The proposed zoning map amendment generally complies with the Flathead County Growth Policy because the 'Residential' land use designation identified by the Designated Land Use Map complies with the proposal and the applicable goals, policies and text generally support the request.

Finding #3: The proposed zoning map amendment does not appear to comply with the Kalispell City-County Master Plan map which illustrates the lot between 'Highway Commercial' and 'Suburban Residential', however the proposed map amendment would support the goals and objectives outlined in the text of the document.

Finding #4: The proposed map amendment will likely not impact safety from fire and other danger because the property is located within ½ mile of the Evergreen Fire

Department, the lot is located along a paved roadway with a cul-de-sac turn around which can accommodate emergency vehicles, the increase in height from 35 feet to 45 feet will be reviewed as a separate text amendment and if approved will presumably cause no significant impacts.

Finding #5: The subject property is located almost entirely within 100-year floodplain and if developed would require a floodplain development permit or would require the property be elevated above the Base Flood Elevation (BFE) of the 100-year floodplain.

Finding #6: The proposed amendment does not appear to have a negative impact on public health, safety and general welfare because future development would be similar or compatible to uses already existing in the area and the property is served by the Flathead County Sheriff and the Evergreen Fire Department.

Finding #7: The zone change may impact the local transportation system as the subject property could double the traffic along Interstate Lane if the area is developed to full capacity but the lot's proximity to Highway 2, the width of the paved roadway and cul-de-sac, and the fact that traffic as a result of multi-family dwellings will require CUP review suggest that the transportation system will not be overburdened by the proposed zone change.

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Finding #9: The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to adhere to the bulk and dimensional requirements including setbacks and lot coverage within the proposed RA-1 designation.

Finding #10: Effects on motorized and non-motorized transportation systems will be minimal because the Flathead County Road and Bridge Department had no concerns with this proposal, the traffic generated by the proposed zoning has the potential to double the traffic along Interstate Lane if the area is developed to full capacity but the lot's proximity to Highway 2, the width of the paved roadway and cul-de-sac, and the fact that traffic as a result of multi-family dwellings will require CUP review suggest that the transportation system will not be overburdened by the proposed zone change.

Finding #11: Consideration has been given to compatible urban growth in the vicinity of the City of Kalispell because the property is designated as '*Urban Mixed Use*' and appears to be compatible with the proposed zone change.

Finding #12: The proposed zoning map amendment appears suitable for the particular district because the zoning classification is intended to provide uses and densities appropriate for a buffer between residential districts and non-residential districts.

Finding #13: This proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this particular location because the uses allowed for within the proposed zone would be the similar to the

adjacent R-5 and designed specifically to provide an appropriate buffer between residential districts and non-residential districts.

Finding #14: The proposed map amendment appears to be compatible with the zoning ordinance of Kalispell because the RA-1 zone would allow for similar or comparable uses to the nearest City's zoning and no comments were received from the City of Kalispell.

VI. CONCLUSION

Per Section 2.08.020(4) of the Flathead County Zoning Regulations (FCZR), a review and evaluation by the staff of the Planning Board comparing the proposed zoning map amendment to the criteria for evaluation of amendment requests found in Section 2.08.040 FCZR has found the proposal to generally comply with most of the review criteria, based upon the draft Findings of Fact presented above. Section 2.08.040 does not require compliance with all criteria for evaluation, only that the Planning Board and County Commissioners should be guided by the criteria.

Planner: RE